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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/970,704	10/05/2001	Mickey W. Calvert	53394.000530	3083

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EXAMINER

CHAN, SING P

ART UNIT	PAPER NUMBER
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1734

DATE MAILED: 12/03/2002

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Please find below and/or attached an Office communication concerning this application or proceeding.

72-5

# Office Action Summary

Application No.

09/970,704

Applicant(s)

CALVERT, MICKEY W.

Examiner

Sing P Chan

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-- Th MAILING DATE of this communication appears on the cover sheet with the correspond nce address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-30 is/are pending in the application.
- 4a) Of the above claim(s) 30 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-29 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 4. 6) ☐ Other: .

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 8-14 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

It unclear how these claims further limits the structure of the apparatus.

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-3, 6-14, 26-29 are rejected under 35 U.S.C. 102(b) as being anticipated by Tomsovic, Jr. (U.S. 4,726,876).

Regarding claims 1 and 26, Tomsovic, Jr. discloses an apparatus for positioning articles. The apparatus includes an applicator, shoes, i.e. applicator heads, suitable gear, i.e. control device to control the rotation of the motor, and cam tracks and cam followers, which provide a control for the applicator heads to travel at the first speed to pick up parts and to travel at a second speed to deposit parts onto a target. (Col 5, line 19 to Col 6, line 67 and Col 8, lines 13-24)

Regarding claims 2 and 27, Tomsovic, Jr. discloses the apparatus has more than one applicator heads. (Col 6, lines 45-50 and Figure 2)

Regarding claim 3, Tomsovic, Jr. discloses the applicator head uses vacuum as a gripping device. (Col 8, lines 66-68)

Regarding claims 6, 7, 28, and 29, Tomsovic, Jr. discloses the applicator's drive system includes motor and gearing, which is considered to be AC servomotor and AC servo drive. (Col 6, lines 38-45)

Regarding claims 8-14, Tomsovic, Jr. discloses the apparatus is for making absorbent article such as disposable diapers, training pants and incontinence garments (Col 1, lines 7-17) and is considered to be capable of transferring the parts such as absorbent core, absorbent core subassemblies, and grip tabs to targets such as absorbent core tissue layer and absorbent garment chassis layer.

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 15-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tomsovic, Jr. (U.S. 4,726,876).

Regarding claims 15-22, Tomsovic, Jr. as disclosed above in the 102(b) rejection does disclose an apparatus for transferring the parts from a web at first speed and discharging the parts at a second speed but does not specify the exact range of the first

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and second speed. However, one in the art would appreciate adjusting the apparatus to optimized the rate the parts is being discharged and the required length of the targets needed and would adjust the first and second speed of the applicator heads accordingly and the apparatus is considered to be capable of transferring the parts at these speeds.

It would have been obvious to one skilled in the art at the time the invention was made to adjust the first and second speed in the apparatus of Tomsovic, Jr. to the speed to optimize and to apply the parts and targets in proper alignment.

7. Claims 4 and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tomsovic, Jr. (U.S. 4,726,876) as applied to claim 1 above, and further in view of Killian (U.S. 5,850,771).

Tomsovic, Jr. as disclosed in the above 102(b) rejection is silent as the gripping device includes mechanical or combination of vacuum and mechanical gripping devices. However, using mechanical or combination of vacuum and mechanical gripping device is well known and conventional as shown for example by Killian. Killian discloses a component applicator, which includes any mechanical or combination of vacuum and mechanical gripping devices. (Col 8, lines 40-47)

It would have been obvious to one skilled in the art at the time the invention was made to provide any mechanical or combination of vacuum and mechanical gripping devices as disclosed by Killian in the apparatus of Tomsovic, Jr. to allow proper gripping of any parts of the absorbent article reliably.

8. Claim 23 is rejected under 35 U.S.C. 103(a) as being unpatentable over Tomsovic, Jr. (U.S. 4,726,876) as applied to claim 1 above, and further in view of Hamuro et al (U.S. 5,177,841).

Tomsovic, Jr. as disclosed in the above 102(b) rejection is silent as to the applicator heads includes a cutting device. However, providing a cutting device in an applicator head is well known and conventional as shown for example by Hamuro et al. Hamuro et al discloses apparatus for layering ceramic capacitor. The apparatus includes a cutting head with a vacuum function device to hold and transfer the punched ceramic sheet. (Col 7, lines 16-23)

It would have been obvious to one skilled in the art at the time the invention was made to provide a cutting device in the applicator heads as disclosed by Hamuro et al in the apparatus of Tomsovic, Jr. to provide a simpler mechanism for cutting and transfer the cut article.

9. Claims 24 and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tomsovic, Jr. (U.S. 4,726,876) as applied to claim 1 above, and further in view of Samida (U.S. 4,758,293).

Tomsovic, Jr. as disclosed in the above 102(b) rejection does not disclose an ultrasonic bonding device in the applicator head. However, providing a bonding device such as an ultrasonic bonding device in an applicator head is well known and conventional as disclosed by Samida. Samida discloses ultrasonic bonding devices wherein the sonotrode and the anvil cooperate to clamp the web and bond the web as it travel along the rotational path. (Col 4, lines 4-31 and Figure 1)

It would have been obvious to one skilled in the art at the time the invention was made to provide bonding device such as ultrasonic devices in the applicator heads as disclosed by Samida in the device of Tomsovic, Jr. which allows a longer bonding time and ensure a proper bond without limiting the travel speed of the web.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sing P Chan whose telephone number is 703-305-3175. The examiner can normally be reached on Monday-Friday 7:30AM-12:00PM and 1:00PM-4:30PM.

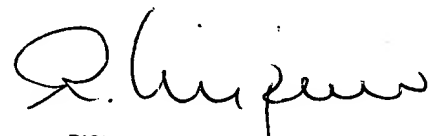
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Crispino can be reached on 703-308-3853. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9310 for regular communications and 703-872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.



Sing P Chan  
Examiner  
Art Unit 1734

spc  
November 26, 2002



RICHARD CRISPINO  
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